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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,944	08/31/2001	David Stebbings	40053.011300	8967
22191	7590	08/23/2004	EXAMINER	
GREENBERG-TRAURIG 1750 TYSONS BOULEVARD, 12TH FLOOR MCLEAN, VA 22102			TO, BAOQUOCN	
			ART UNIT	PAPER NUMBER
			2172	

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	09/942,944	Applicant(s)	STEBBINGS ET AL.
Examiner	Baoquoc N To	Art Unit	2172

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 29 April 2002.  
2a) This action is FINAL.                    2b) This action is non-final.  
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-42 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) Claim(s) \_\_\_\_\_ is/are allowed.  
6) Claim(s) 1-42 is/are rejected.  
7) Claim(s) \_\_\_\_\_ is/are objected to.  
8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.  
10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
    1. Certified copies of the priority documents have been received.  
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
    Paper No(s)/Mail Date 04/29/02.

4) Interview Summary (PTO-413)  
    Paper No(s)/Mail Date. \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. Claims 1-42 are presented for examination.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 04/29/02. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Claim Objections***

3. Claims 19 and 38 are objected to because of the following informalities:  
claims 19 and 38 are duplicated of claims 17 and 36. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pace et al. (US. Patent No. 6,460,050 B1).

Regarding on claims 1 and 20, Pace teaches a method of identifying electronic files comprising the steps of:

identifying a beginning of content within a file (preprocessing section 110 reading through the message) (col. 3, lines 10-15 and col. 4, lines 54-58);

generating a tag based on content of the file (generate the digital identifier) (col. 3, lines 40-49); and

Pace does not explicitly teach comparing the tag to other tags in a database of tags to measure similarity between the tag and the other tags; however, Pace discloses "the digital identifier is forwarded to a processing system which correlates any number of other identifiers through a processing algorithm to determine whether a particular characteristic for the content exists. In essence, the classification is a true/false test for the content based on the query for which the classification is sought. For example, a system can identify whether a piece of mail is or is not spam, or whether the content is a particular file matches a given criteria indicating it is or is not copyright material or contains or does not contain a virus" (col. 3, lines 11-20 and col. 3, lines 40-49). In Pace the generated identifier comprises the portion of the message which being compared to other characteristic tested to determine if the generated message identifier is spam or not. The process of measuring the similar is used in the comparison process between the generated identifiers and the characteristic criteria in order to determine the message is spam or not. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to modify the Pace's system to include the determining process by comparing the generated identifier including portions of the message to the characteristic tested in order to determine the message is or not spam.

Regarding on claim 2 and 21, Pace teaches the step of generating the tag uses a Fast Fourier Transform (col. 3, lines 40-45).

Regarding on claims 3 and 22, Pace teaches the step of generating the tag uses a Discrete Cosine Transform (col. 3, lines 40-45).

Regarding on claims 4 and 23, Pace teaches the step of generating the tag uses a shape fit algorithm (col. 3, lines 40-45).

Regarding on claims 5 and 24, Pace teaches the step of generating the tag uses a statistical evaluation of relative value of data bytes within the file.

Regarding on claim 6 and 25, Pace teaches step of generating the tag uses a hash sum (col. 3, lines 40-45).

Regarding on claims 7 and 26, Pace teaches the step of generating the tag adds time and date stamp to the tag (col. 3, lines 40-45).

Regarding on claim 8 and 27, Pace teaches the step of generating the tag adds a file type identifier (ID) to the tag (col. 3, lines 40-45).

Regarding on claims 9 and 28, Pace teaches the step of generating the tag incorporates an error detection and correction scheme into the tag (detecting the spam) (col.5, lines 1-15).

Regarding on claims 10 and 29, Pace teaches the step of generating the tag incorporates encryption into the tag (col. 3, lines 40-45).

Regarding on claims 11 and 30, Pace teaches the step of generating the tag generates a level shift insensitive tag (col. 3, lines 40-45).

Regarding on claims 12 and 31, Pace teaches the step of generating the tag generates a time shift insensitive tag (col. 3, lines 40-45).

Regarding on claims 13 and 32, Pace teaches step of generating the tag generates a time compression insensitive tag (col. 3, lines 40-45).

Regarding on claims 14 and 33, Pace teaches the step of identifying the beginning of the content ignores "quiet time" in a beginning of a music file (col. 3, lines 40-45).

Regarding on claims 15 and 34, Pace teaches the step of comparing the tag uses a percent (col. 3, lines 40-45).

Regarding on claims 16 and 35, Pace teaches the step of comparing the tag uses a frequency weight analysis (col. 3, lines 40-45).

Regarding on claims 17 and 36, Pace teaches the step of comparing the tag uses a magnitude weight analysis (determines by characteristic tested) (col. 3, lines 40-45).

Regarding on claims 18 and 37, Pace teaches the step of comparing the tag uses a fast track ellipse analysis (col. 3, lines 40-45).

Regarding on claim 39, Pace teaches the means for comparing the tag also compares differences between the tag and the other tags (the comparison process in Pace determines different characteristics for the spam message) (col. 3, lines 10-15)

Regarding on claims 40-42, Pace teaches a computer program product for identifying electronic files comprising: a computer usable medium having computer readable program code means embodied in the computer usable medium for causing an application program to execute on a computer system, the computer readable program code means comprising:

computer readable program code means for identifying a beginning of the content within a file being transmitted through a network (a message processing section 110, read the content of the message over while the message is transferring over the network to the client) (col. 4, lines 53-58);

computer readable program code means for generating a tag based on content of the file (generate the digital identifier) (col. 3, lines 40-49); and

Pace does not explicitly teach computer readable program code means for comparing the tag to other tags in a database of tags to measure similarity between the tag and the other tags; however, Pace discloses "the digital identifier is forwarded to a processing system which correlates any number of other identifiers through a processing algorithm to determine whether a particular characteristic for the content exists. In essence, the classification is a true/false test for the content based on the query for which the classification is sought. For example, a system can identify whether a piece of mail is or is not spam, or whether the content is a particular file matches a given criteria indicating it is or is not copyright material or contains or does not contain a virus" (col. 3, lines 11-20 and col. 3, lines 40-49). In Pace the generated identifier comprises the portion of the message which is being compared to other characteristic tested to determine if the generated message identifier is spam or not. The process of measuring the similarity is used in the comparison process between the generated identifiers and the characteristic criteria in order to determine the message is spam or not. Therefore, it would have been obvious to one ordinary skill in the art at the time of the invention was made to modify the Pace's system to include the

determining process by comparing the generated identifier including portions of the message to the characteristic tested in order to determine the message is or not spam.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ruedisueli et al. (US. Patent No. 5,838,819) Patent date: 11/17/1998

Ruedissueli is the system that allows generation of the file identifier for the copies of the files (col. 11, lines 55-59). The merging of two files requires the comparison of the two files identifiers (which corresponding to the claimed limitations of comparing the tag to other tags in a database of tags to measure similarity between the tag and other tags) wherein the two files identifiers need to be matched in order to merge (col. 6, lines 39-67 to col. 7, lines 1-14). This is also a 103 (a) rejection based on the claimed 1, 20 and 40-42.

### ***Contact Information***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Baoquoc N. To whose telephone number is (703) 305-1949 or via e-mail BaoquocN.To@uspto.gov. The examiner can normally be reached on Monday-Friday: 8:00 AM – 4:30 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached at (703) 305-9790.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Art Unit: 2172

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231.

The fax numbers for the organization where this application or proceeding is assigned are as follow:

(703) 872-9306 [Official Communication]

Hand-delivered responses should be brought to:

Crystal Park II  
2121 Crystal Drive  
Arlington, VA 22202  
Fourth Floor (Receptionist).

Baoquoc N. To

August 19, 2004



JEAN M. CORRIEUS  
PRIMARY EXAMINER